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IN THE FOURTH JUDICIAL DISTRICT COURT OF THE STATE OF UTAH, IN AND
FOR UTAH COUNTY. No. 2288 Civil.

PTOVO RESERVOIR COMPANY, a corporation,	Plaintiff,	:	
		:	
vs.		:	Answer of Charleston Irriga-
		:	tion Company, as to its
PROVO CITY, et al.	Defendants.	:	Stockholders in its Lower Canal.

Comes now the defendant Charleston Irrigation Company, a corporation doing business as an irrigation company in Wasatch County, Utah, appearing for itself and not for the other defendants and for the purpose of answering for its stockholders in what is known as its "Lower Canal", for its answer to plaintiff's complaint, filed herein, admits denies and alleges as follows, to wit:

1. This defendant admits all of the allegations of said complaint from paragraphs 1 to 24 inclusive, admit paragraph 26 of said complaint, also admit allegations contained in paragraphs 25 and 27 as to the months of April, May and June, but deny each and every allegation as to the month of July and the whole thereof.

2. Answering paragraphs 28 to 33 inclusive of said complaint, this defendant denies that ~~that~~ it has any knowledge or information sufficient to form a belief as to the matters therein contained.

3. Answering paragraph 34 of said complaint this defendant admits that plaintiff claims a right to store the flood waters of said ~~2~~ Provo river in its several reservoirs mentioned in its complaint and to release the water so stored at such time and in such quantities as will best serve its interests and the interest of its stockholders and lessees, but as to the right or any right plaintiff may have in respect thereto this defendant denies its has any knowledge or information sufficient to form a belief.

4. Answering paragraph 35 of said complaint ~~this~~ defendant answering for itself only, denies said paragraph and the allegations therein contained, but as ~~to~~ the matters therein alleged against and concerning the other defendants in this action this defendant denies that it has any knowledge or information sufficient to form a belief.

5. Answering paragraph 36 of said complaint this defendant admits that it has a right prior in point of time of appropriation of the waters of Provo river, to that of the plaintiff to the extent of its appropriation, admits that it has been year after year continuously during the irrigation season, claiming it has a right to do so, using the water diverted by it to the extent of its appropriation but it denies that said use has been wasteful and in quantities largely or at all in excess of that necessary and beneficial for the irrigation of the lands belonging to its stockholders, and it alleges that it expects so to use said water in the quantity and to the extent that the same has heretofore been used unless deprived of such right by a decree of this court. Further answering said paragraph 36 this defendant denies generally and specifically each and every allegation thereof not herein specifically admitted or denied.

6. Answering paragraph 37 of said complaint and the allegations therein contained this defendant admits the rendition of the decrees rendered in 1899 and 1905 as described in said paragraph but as to the remaining allegations in said paragraph this defendant denies that it has any knowledge or information sufficient to form a belief concerning the same.

7. Further answering said complaint this defendant denies generally each and every paragraph thereof and the allegations contained therein except such as are herein admitted or denied.

Further answering said complaint for and as a defense and by way of counterclaim for affirmative relief, this defendant alleges as follows, to wit:

1. That this defendant is a corporation doing business in Wasatch County, State of Utah, as an irrigation company, managing, controlling and distributing a portion of the waters of Provo river and its tributaries among its stockholders and particularly to its stockholders owning lands along and under what is known as the "Charleston Lower Canal", one of the canals owned, controlled and managed by this

defendant for the purpose of distributing to its stockholders owning lands so situated, such portion of said waters of Provo river, as they are entitled to by reason of said appropriation and use, according to their respective rights.

2. That by means of said Charleston Lower Canal, which has its source in said Provo river and from springs, seepage, drainage and water which finds its way to the surface above and along the course of said canal and by means of said canal and laterals constructed by this defendant for the purpose of supplying its stockholders, this defendant appropriated waters from said Provo river and its tributaries, the quantity thereof in second or acre feet being to defendant unknown, and applied the same to the irrigation of about 525 acres of land situated in Wasatch County, Utah, owned and occupied by its said stockholders, lying along and under said lower canal system. That the quantity of water appropriated and used by defendant for the use of its stockholders is not more than sufficient to irrigate the said lands, which said lands prior to the irrigation thereof, by the means aforesaid were barren and sterile and of little or no value but which have since become of great value because of said irrigation.

3. That this defendant for the purpose of supplying its stockholders with necessary water to irrigate their lands by means of said canal and laterals constructed by it, made appropriation of water which had theretofore been unappropriated, of the waters of said Provo river and its tributaries; that prior to the appropriation as herein set forth, the water appropriated by it was surplus and unappropriated and that by said appropriation it did not interfere with or infringe upon the prior rights of any other person or corporation, to the waters of said river.

4. That this defendant has for more than twenty years last past, continuously used for beneficial and necessary irrigation, during the irrigation season of each and every year, all of the waters so appropriated and used, and that said use has been open, peaceable, uninterrupted, notorious and adverse to the whole world and particularly

against the plaintiff herein, under a claim of right by reason of prior appropriation and use, in such quantities as was and is necessary to irrigate the said lands herein alleged and set forth.

b. This defendant further alleges that the claim of the plaintiff in this action, as against this defendant, is without foundation of right and is a cloud upon the title of this defendant.

WHEREFORE, this defendant prays judgment that its rights to the quantity of water claimed and used by it as above set forth, be adjusted and determined and that the same be affirmed and that the plaintiff be enjoined from asserting any claim of right whatever to the waters of said river adverse to this defendant to the extent of its appropriations and use as aforesaid.

This defendant prays for such other and further relief as may be equitable and just and for its costs herein expended.

James Ritchie
Attorney for this Defendant.

STATE OF UTAH,

ss.

COUNTY OF WASATCH.

James Ritchie being first duly sworn on oath says, that he is one of the directors of the Charleston Irrigation Company, the defendant herein named, that he has read the foregoing answer and knows the contents thereof and that the same is true of his own knowledge except as to matters therein stated upon information and belief and as to those matters he verily believes it to be true.

Subscribed and sworn to before me this 28 day of April, A.D. 1914.

My commission expires

August 6, 1915.

J. W. Daybell
NOTARY PUBLIC.

Due service of the foregoing answer hereby this 30th day of April AD, 1914, accepted.

A. B. Hatch, Jacob Evans, A. L. Boyth,
and A. J. Evans - attorneys for plaintiff